MONTANA LEGISLATIVE HISTORY

Chapter 520 19 97

Bill H 339 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	2-4	✓ C	Hearing Date(s)	3-11	✓ C
		C		3-13	✓ C
	Free Conf. Comm.	C			C
	4-15	✓ C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HB 338 INTRODUCED BY LAWSON *LC0841 DRAFTER: COLHOUN*

REVISE SUBDIVISION FILING FEES

1/23	INTRODUCED		
1/23	FIRST READING		
1/23	REFERRED TO LOCAL GOVERNMENT		
1/23	FISCAL NOTE REQUESTED		
1/29	FISCAL NOTE RECEIVED		
1/30	FISCAL NOTE PRINTED		
2/06	HEARING		
2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING DO NOT PASS AS AMEND	29	71

HB 339 INTRODUCED BY CAREY, ET AL. *LC0298 DRAFTER: MACMASTER*

CHANGE THE PENALTIES FOR A PERSON UNDER THE AGE OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC

1/23	INTRODUCED		
1/23	FIRST READING		
1/23	REFERRED TO JUDICIARY		
1/31	FISCAL NOTE REQUESTED		
2/04	HEARING		
2/05	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	FISCAL NOTE PRINTED		
2/06	FISCAL NOTE RECEIVED		
2/07	2ND READING PASSED	90	10
2/08	3RD READING PASSED	88	10
	TRANSMITTED TO SENATE		
2/11	FIRST READING		
2/11	REFERRED TO JUDICIARY		
3/07	REVISED FISCAL NOTE REQUESTED		
3/11	HEARING		
3/12	REVISED FISCAL NOTE RECEIVED		
3/12	REVISED FISCAL NOTE PRINTED		
3/15	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/19	2ND READING CONCURRED	27	23
3/20	3RD READING FAILED	24	26
3/21	RECONSIDERED PREVIOUS ACTION AND PLACED ON 2ND READING	38	10
3/24	2ND READING CONCURRED AS AMENDED	50	0
3/25	3RD READING CONCURRED	44	5
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS NOT CONCURRED	90	10
4/09	FREE CONFERENCE COMMITTEE APPOINTED		
4/15	HEARING		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	81	19
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	72	26
	SENATE		
4/10	FREE CONFERENCE COMMITTEE APPOINTED		
4/17	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	47	0
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	40	9
4/24	SIGNED BY SPEAKER		

4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 520		
	EFFECTIVE DATE: 05/02/97		

HB 340 INTRODUCED BY KOTTEL, ET AL. *LC1179 DRAFTER: FOX*

CLARIFY THE PLACE OF REGISTRATION OF A DEATH CERTIFICATE

1/23	INTRODUCED		
1/23	FIRST READING		
1/23	REFERRED TO HUMAN SERVICES & AGING		
1/31	HEARING		
2/03	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	2ND READING PASSED	98	0
2/07	3RD READING PASSED	95	1
	TRANSMITTED TO SENATE		
2/08	FIRST READING		
2/08	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/05	HEARING		
3/06	COMMITTEE REPORT—BILL CONCURRED		
3/10	2ND READING CONCURRED	50	0
3/11	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/15	SIGNED BY SPEAKER		
3/15	SIGNED BY PRESIDENT		
3/17	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 118		
	EFFECTIVE DATE: 10/01/97		

HB 341 INTRODUCED BY MERCER, ET AL. *LC1160 DRAFTER: PETESCH*

EXCLUDE SALESPERSONS, PARTS PERSONS, AND MECHANICS EMPLOYED BY A BUSINESS PRIMARILY ENGAGED IN SELLING REPLACEMENT PARTS TO A WHOLESALER OR THE ULTIMATE PURCHASER FROM THE OVERTIME COMPENSATION LAW

1/23	INTRODUCED		
1/23	FIRST READING		
1/23	REFERRED TO BUSINESS & LABOR		
2/05	HEARING		
2/06	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED		
2/08	2ND READING PASSED	88	10
2/10	3RD READING PASSED	88	10
	TRANSMITTED TO SENATE		
2/11	FIRST READING		
2/11	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/11	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED		
3/22	2ND READING CONCURRED	49	0
3/24	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/26	SIGNED BY SPEAKER		
3/27	SIGNED BY PRESIDENT		
3/28	TRANSMITTED TO GOVERNOR		
4/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 193		
	EFFECTIVE DATE: 10/01/97		

House BILL NO 339

INTRODUCED BY Carey Williams James Rice

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PENALTIES FOR A PERSON UNDER THE AGE OF 21 WHO HAS AN ALCOHOL CONCENTRATION OF 0.02 OR MORE AND DRIVES OR WHO IS IN ACTUAL PHYSICAL CONTROL OF A VEHICLE UPON WAYS OF THIS STATE OPEN TO THE PUBLIC; AND AMENDING SECTION 61-8-410, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-410, MCA, is amended to read:

"61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02 or more. (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle upon ways of this state open to the public.

~~(2) A person convicted of a violation of this section must be sentenced under the provisions of 45-5-624.~~

~~(3)~~ Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.

(2) Upon a first conviction under this section, a person shall be punished by a fine of not less than $100 or more than $500.

(3) Upon a second conviction under this section, a person shall be punished by a fine of not less than $200 or more than $500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

(4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than $300 or more than $500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(5) In addition to the punishment provided in this section, regardless of disposition:

(a) the person shall comply with the alcohol information course and alcohol and drug treatment provisions in 61-8-714; and

(b) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted

INTRODUCED BILL
HB 339

or probationary driver's license may not be issued during the suspension period."

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0339, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
A bill changing the penalties for a person under the age of 21 who has an alcohol concentration of 0.02 or more and drives or who is in actual physical control of a vehicle upon ways of this state open to the public.

ASSUMPTIONS:
1. HB 339 does three things that fiscally impact the state: 1) it increases the fines that may be charged, 2) it makes license suspension mandatory for first offense for people under 21 years, and 3) it complies with federal law so that federal monies will not be withheld. These three impacts are explained in greater detail in the following assumptions. Also, it is assumed that the effective date of the bill is October 1, 1997, and thus all FY98 amounts are 75% of the FY99 amounts.
2. Under current law, a violation of 61-8-410, MCA, if operating a vehicle and under age 18 and it is the first offense, produced a fine of up to $100; if age is between 18-21, the fine is up to $50. Proposed law makes the fine a range of at least $100, but not greater than $500, for all persons under age 21. Second and third conviction fines also increase, in approximately the same ratio.
3. The Department of Justice (DOJ) estimated an increase in fine revenue in the state general fund in FY99 of $60,500. DOJ assumed a mid-range of the current law and compared that with the bottom of the range for the proposed law, for the 1st, 2nd and 3rd offenses. The assumptions and calculations are extensive, and therefore not included here, but are available in the OBPP offices.
4. The proposed law requires suspension of the driver's license for 90 days on 1st offense; current law does not provide for license suspension. The DOJ estimates it will suspend 1,000 more licenses with the passage of HB 339. Each suspension requires approximately 3/4 of an hour. Thus in FY99 a 0.40 FTE would be needed to suspend the additional licenses. A 0.40 FTE, grade 8, would cost $8,200 in FY99 with operating expenses of $2,500, and equipment in FY98 of $4,500.
5. In November 1995, a federal law went into effect requiring, among other things, that people under 21 years, if driving with an alcohol content of .02 or higher, must have their driver's license suspended. If the states do not comply with this law by October 1, 1998, 5% their of federal-aid apportionment funds, or about $5 million will be withheld in FY99, and 10%, or $10 million, in FY00 and thereafter. Passage of HB339 will satisfy the federal law and thus avoid potential withholding. The Governor's Executive Budget assumes the funds will not be withheld; thus, with the proposed law, there is no fiscal impact.

FISCAL IMPACT:
Department of Justice:

Expenditures:	FY98 Difference	FY99 Difference
FTE	0.30	0.40
Personal Services	6,200	8,200
Operating Expenses	2,000	2,500
Equipment	4,500	0
Total	12,700	10,700
Funding:		
General Fund (01)	12,700	10,700

(continued)

Dave Lewis 2-5-97
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Bill Carey 2-6-97
BILL CAREY, PRIMARY SPONSOR DATE

	FY98 Difference	FY99 Difference
Revenues:		
Fine revenue (01)	45,400	60,500
Net Impact on Fund Balance: (revenue minus expense)		
General Fund (01)	32,700	49,800

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Fifty percent of fine revenue is deposited to the general fund of the county in which the infraction occurred. Therefore, with the passage of this bill, counties would receive approximately $60,500 more in revenue each year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
Passage of this bill may make Montana eligible for a $250,000 annual grant through the National Highway Traffic Safety Administration. Some of this grant may flow to local governments.

HOUSE JUDICIARY

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0323	BOHARSKI, WILLIAM	PROHIBIT SAME-SEX MARRIAGES				
	1/22	2/13		DO PASS 02/19 VOTE: 15-5		2/19
HB0325	BRAINARD, MATT	AMEND CONST. TO MANDATE GRAND JURY IF PEOPLE PETITION FOR ONE				
	1/23	2/07		DO PASS 02/13 VOTE: 10-3		2/14
HB0337	BOHLINGER, JOHN	IMMUNITY FOR DENTISTS WHO PROVIDE CHARITABLE SERVICES				
	1/23	2/06		PASS AS AMENDED 02/12 VOTE: 19-0		2/13
HB0339	CAREY, BILL	CHANGE PENALTY FOR ONE UNDER 21 WHO FAILS DUI TEST				
	1/23	2/04		PASS AS AMENDED 02/04 VOTE: 15-0		2/05
HB0342	BARNHART, BEVERLY	ELIMINATE $10 MAXIMUM LIMIT FOR ON-CAMPUS VEHICLE AND PARKING VIOLATIONS				
	1/23	2/05		DO PASS 02/05 VOTE: 18-2		2/06
HB0343	GRIMES, DUANE	REVISE DOMESTIC VIOLENCE LAWS				
	1/23	1/31		PASS AS AMENDED 02/06 VOTE: 16-2		2/07
HB0346	TROPILA, JOE	GENERALLY REVISING LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE				
	1/24	2/05		TABLED ON 02/12 VOTE: 19-0		
HB0352	SLITER, PAUL	IMMUNIZE OWNER OF STOLEN PROPERTY FROM LIABLE LATER OCCURRING				
	1/25	1/30		PASS AS AMENDED 02/12 VOTE: 11-7		2/13
HB0365	MCGEE, DANIEL	CREATE OFFENSE OF CAUSING PARTIAL-BIRTH ABORTIONS				
	1/27	2/12		DO PASS 02/18 VOTE: 12-8		2/18
HB0389	SIMON, BRUCE	STRENGTHEN THE REQUIREMENTS FOR AN EMERGENCY STATE AGENCY RULE				
	1/29	2/11		TABLED ON 02/11 VOTE: 16-4		
HB0396	GRIMES, DUANE	PLACE PODIATRY IN MEDICAL LEGAL PANEL ACT				
	1/30	2/12		DO PASS 02/12 VOTE: 16-0		2/13
HB0401	BARNETT, JOE	REVISE LAWS GOVERNING BAIL				
	1/30	2/11		PASS AS AMENDED 02/11 VOTE: 20-0		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on February 4, 1997, at 7:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: Rep. Boharski excused until 8:00 AM.

Members Absent: Reps. Smith and Molnar absent until 8:00 AM.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted:	SB 36, HB 222	POSTED 1/22/97
	HB 321, HB 339	POSTED 1/28/97
Executive Action:	SB 36	BE CONCURRED IN
	HB 268	DO PASS
	HB 321	DO PASS
	HB 44	DO PASS AS AMENDED
	HB 68	DO PASS AS AMENDED
	HB 339	DO PASS AS AMENDED
	HB 273	TABLE

SHARON HOFF, Montana Catholic Conference
{Tape: 2; Side: B; Approx. Time Count: 11.7}

RUSSELL HILL, Montana Trial Lawyers Association
{Tape: 2; Side: B; Approx. Time Count: 14.1}

SCOTT CRICHTON, ACLU EXHIBIT 7
{Tape: 2; Side: B; Approx. Time Count: 16.8}

Questions From Committee Members and Responses:
{Tape: 2; Side: B; Approx. Time Count: 20.0 - Tape 3; Side A; 34.6}

Closing by Sponsor: REP. ANDERSON
{Tape: 3; Side: A; Approx. Time Count: 34.7}

HEARING ON HB 321

Opening Statement by Sponsor: REP. MC CULLOCH EXHIBITS 8 and 9
{Tape: 3; Side: A; Approx. Time Count: 39.7}

Proponents' Testimony:

SCOTT RESTVEDT, Valley Process Server
{Tape: 3; Side: A; Approx. Time Count: 42.6}

EARL ROWE, Bondsman
{Tape: 3; Side: A; Approx. Time Count: 44.0}

DEAN CROW, Valley Process Server
{Tape: 3; Side: B; Approx. Time Count: 0.1}

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 1.5 - 4.0}

Closing by Sponsor: REP. MC CULLOCH
{Tape: 3; Side: B; Approx. Time Count: 4.1}

HEARING ON HB 339

Opening Statement by Sponsor: REP. BILL CAREY
{Tape: 3; Side: B; Approx. Time Count: 4.7}

Proponents' Testimony:

HAROLD HANSER, State DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 7.7}

BRENDA NORDLAND, Department of Justice EXHIBITS 10, 11 and 12
{Tape: 3; Side: B; Approx. Time Count: 11.7}

DIANNE STANLEY, State DUI Task Force EXHIBITS 13 and 14
{Tape: 3; Side: B; Approx. Time Count: 16.3}

PATRICIA SAINDON, Department of Transportation
{Tape: 3; Side: B; Approx. Time Count: 18.0}

MIKE RUPERT, Boyd Andrew and DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 21.7}

LOU ANN HIMEL
{Tape: 3; Side: B; Approx. Time Count: 22.4}

MIKE COLLINS, DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 26.5}

KATHY COLLINS, DUI Task Force
{Tape: 3; Side: B; Approx. Time Count: 27.4}

KATHY MC GOWAN, Montana Addiction Services Provider
{Tape: 3; Side: B; Approx. Time Count: 29.5}

BRENDA NORDLAND, Department of Justice **EXHIBIT 15**

Questions From Committee Members and Responses:
{Tape: 3; Side: B; Approx. Time Count: 31.3 - 41.0.}

Closing by Sponsor: **REP. CAREY**
{Tape: 3; Side: B; Approx. Time Count: 41.4

EXECUTIVE ACTION ON HB 44

{Tape: 4; Side: A; Approx. Time Count: 0.1; Comments: Executive Action on HB 44 was resumed.}

Motion: **REP. ANDERSON moved the Department of Corrections Amendments**

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 0.2 - 16.2}

Vote: The motion carried by unanimous voice vote.

Motion/Vote: **REP. BILL BOHARSKI moved HB 44 DO PASS AS AMENDED.** The motion carried 16 - 0. REP. ANDERSON voted aye by proxy.

EXECUTIVE ACTION ON SB 36

Motion/Vote: **REP. HURDLE moved SB 36 BE CONCURRED IN.** The motion carried 15 - 0.
{Tape: 4; Side: A; Approx. Time Count: 17.0}

EXECUTIVE ACTION ON HB 321

Motion: **REP. HURDLE moved HB 321 DO PASS.**

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 18.4}

Vote: The motion carried 14 - 1, REP. BOHARSKI voting no.
{Tape: 4; Side: A; Approx. Time Count: 19.2; Comments: REPS. HANSON, ANDERSON, MOLNAR, SMITH and GRIMES were absent.}

EXECUTIVE ACTION ON HB 339

Motion: **REP. DIANE SANDS moved HB 339 DO PASS.**

Motion: **REP. MC GEE moved to amend HB 339 with an immediate effective date.**
{Tape: 4; Side: A; Approx. Time Count: 23.3}

Discussion:
{Tape: 4; Side: A; Approx. Time Count: 24.0 - 26.8}

Vote: The motion carried 14 - 1. REP. BOHARSKI voting no.

Motion/Vote: **REP. CHRIS AHNER moved HB 339 DO PASS AS AMENDED.** The motion carried 15 - 0.
{Tape: 4; Side: A; Approx. Time Count: 27.5}

EXECUTIVE ACTION ON HB 273

Motion: **REP. MC GEE moved HB 273 DO PASS.**

Motion/Vote: **REP. LOREN SOFT moved to table HB 273.** The motion carried 13 - 2, REPS. CURTISS and KOTTEL voting no.

EXECUTIVE ACTION ON HB 268

Motion: **REP. SANDS moved HB 268 DO PASS.**

Discussion:
{Tape: 4; Side: A; Approx. Time Count: Time count at the end of executive action in this meeting was not recorded.}

Vote: The motion carried 15 - 0.

Motion/Vote: **REP. SOFT moved to adjourn.** The motion carried by unanimous vote.

SENATE JUDICIARY

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0306	3/07	3/24		TABLED ON 03/27 VOTE:7-3		
HB0321	MCCULLOCH, LINDA 2/08	2/20	MAKE IT AN OFFENSE TO OBSTRUCT A PROCESS SERVER	CONCUR VOTE: 10-0	2-20	2/20
HB0323	BOHARSKI, WILLIAM 3/03	3/17	PROHIBIT SAME-SEX MARRIAGES	CONCUR VOTE: 7-3	3-18	3/19
HB0325	BRAINARD, MATT 2/19	3/10	AMEND CONST. TO MANDATE GRAND JURY IF PEOPLE PETITION FOR ONE	TABLED ON 03/11 VOTE:		
HB0337	BOHLINGER, JOHN 2/19	3/04	IMMUNITY FOR DENTISTS WHO PROVIDE CHARITABLE SERVICES	CONCUR AS AMENDED VOTE: 10-0	3-4	3/06
HB0339	CAREY, BILL 2/11	3/11	CHANGE PENALTY FOR ONE UNDER 21 WHO FAILS DUI TEST	CONCUR AS AMENDED VOTE: 9-1	3-13	3/15
HB0343	GRIMES, DUANE 2/13	3/10	REVISE DOMESTIC VIOLENCE LAWS	CONCUR AS AMENDED VOTE: 10-0	3-11	3/12
HB0346	TROPILA, JOE 3/03	3/13	GENERALLY REVISING LAWS RELATING TO MANDATORY MOTOR VEHICLE INSURANCE	CONCUR AS AMENDED VOTE: 10-0	3-13	3/15
HB0352	SLITER, PAUL 2/19	3/10	IMMUNIZE OWNER OF STOLEN PROPERTY FROM LIABLE LATER OCCURRING	CONCUR AS AMENDED VOTE: 7-3	3-11	3/12
HB0401	BARNETT, JOE 2/19	3/12	REVISE LAWS GOVERNING BAIL	CONCUR AS AMENDED VOTE: 10-0	3-12	3/14
HB0411	AHNER, CHRIS 2/19	3/12	MAKE IT AN OFFENSE TO TATTOO A MINOR WITHOUT PARENTAL CONSENT	CONCUR VOTE: 10-0	3-12	3/13
HB0426	KOTTEL, DEB 2/20	3/18	REVISE UNIFORM COMMERCIAL CODE LETTERS OF CREDIT AND SECURITIES	CONCUR AS AMENDED VOTE:10-0	3-19	3/21
	WELLS, JACK		GENERALLY AMEND CONCEALED WEAPON PERMIT LAW			

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE D. CRIPPEN**, on March 11, 1997, at 8:05 A.M., in Senate Judiciary Room, Room 325.

ROLL CALL

Members Present:
Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: Sen. Ric Holden

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 44,	March 4
	HB 65,	March 4
	HB 339,	March 4
Executive Action:	HB 343, HB 352, HB 65, HB 68, HB 325, HB 339	

EXECUTIVE ACTION ON HB 343

Amendments: hb034302.avl - **EXHIBIT 1**

Motion: **SEN. LORENTS GROSFIELD MOVED HB 343 BE AMENDED.**

Discussion: **SEN. GROSFIELD**, referring to page 9 of the bill, stated he asked the police officer in the hearing about what that part of the bill would mean. He understood the procedure to be that the police officer had to receive a complaint from more than one person who is a family member before they could consider a determination of primary aggressor. If the original call comes from the wife and is then corroborated by a neighbor, that

HEARING ON HB 339

Sponsor: REP. BILL CAREY, HD 67, Missoula

Proponents: Brenda Nordlund, Department of Justice
Harold Hanser, Chairman of State DUI Task Force
Charles Brooks, DUI Task Force
Mike Ruppert, Executive Director of the Boyd Andrew Chemical Dependency Care Center
Troy McGee, Helena Chief of Police
Kathy McGowen, MASP
Pat Saindon, Administrator of Transportation Planning Division, Dept. of Transportation

Opponents: None

Opening Statement by Sponsor:

{Tape: 2; Side: b; Approx. Time Count: 10:30; Comments: .}

REP. BILL CAREY, HD 67, Missoula, introduced HB 339. Under the current law, the penalty structure for minors in possession and for .02 alcohol concentration offenses are inconsistent and confusing. They are costly to administer and difficult for everyone involved to understand. The license suspension occurs upon a second offense for those under age 18, whether or not the offender was driving at the time. Upon a third offense for someone under 18, and for those 18 and over, only about second and third offense, if the offender was driving at the time. For those under age 18 under the current law, the suspension time period runs from 60 days to a license revocation of up to one year or until age 18. For those 18 and over, the suspension timeframes are 60 days for second offense driving and 120 days for third offense driving. The penalty structures under HB 339, with just two exceptions, apply across the board to offenders of all ages. Section 1(5)(a) requires that the person shall comply with the alcohol information course and alcohol and drug treatment provisions in 61-8-704. The offender is not eligible for a probationary license during the period of suspension. This will be in line with the federal law.

Proponents' Testimony:

{Tape: 2; Side: b; Approx. Time Count: 10:33

Brenda Nordlund, Department of Justice, presented her written testimony, **EXHIBIT 6.** Many minor in possession (MIP) violators are individuals who are driving and in actual physical control of the automobile at the time of the offense. The MIP was chosen as the ticket of choice to write because it was easier to prove. Under the .02 violation you have to be able to prove alcohol concentration in excess of .02. That means a test. For communities that have portable breath testers, that may or may not be available. The way the implied consent law was written,

there was no compulsion for a person who was arrested under an .02 violation to submit to an intoxilizer. PBT test results were not admissible. This bill will make the .02 offense a meaningful and distinct offense for violators. She presented two handouts, **EXHIBIT 7,** the pink sheet, clearly illustrates how difficult the current law is to administer. They have one FTE dedicated to MIP violations. The blue sheet, **EXHIBIT 8**, shows how this bill would change that situation. On an .02 violation, they would no longer have to figure out the birth date to determine whether or not a license suspension is appropriate. The first instance that an individual violates this law and is convicted, they would be given a 90 day drivers license suspension, no right to a probationary license, a fine determined by the court of jurisdiction, which would be between $100 and $500, and they would be compelled to submit to the ACT course and alcohol and drug treatment, if chemically dependent. Repeat violations would include incarceration for up to 10 days or 60 days if the offender is over the age of 18. Kids who combine alcohol and driving are kids who can develop the lifestyle which leads to the impaired driver. The line between .02 and .10, the adult BAC, can be reached very easily.

Harold Hanser, Chairman of State DUI Task Force, spoke in favor of HB 339. It is essential that the penalties be brought into line to provide a deterrent to conduct which can be a disaster for the drinking driver. The message is that you cannot drink and drive.

Charles Brooks, DUI Task Force, spoke in favor of HB 339. He presented a letter from Gladys Vance, Cascade County, Justice of the Peace, **EXHIBIT 9.**

Mike Ruppert, Executive Director of the Boyd Andrew Chemical Dependency Care Center, spoke in favor of HB 339. They provide the ACT course which all DUI offenders attend. They perform assessments on DUI offenders and refer them to treatment.

{Tape: 3; Side: a; Approx. Time Count: 10:27; Comments: .}

Troy McGee, Helena Chief of Police, rose in support of HB 339.

Kathy McGowen, MASP, stated this bill adds the proper balance between treatment and penalty.

Pat Saindon, Administrator of Transportation Planning Division, Department of Transportation, stated that Congress passed a bill known as the national highway system bill. This bill also eliminated a national speed limit. Buried in this bill was the requirement that would withhold certain federal highway funds which go to the states if they did not enforce zero tolerance laws. House Bill 339 adds the penalty section and would place Montana in compliance with this law. This bill also allows Montana to qualify for some separate provisions for drinking and driving incentive grants. Without the zero tolerance laws, by

October of 1998 the State of Montana would lose 5% of its federal funds which would be approximately $5.4 million. In October of 1999 that would go up to 10%.

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 3; Side: a; Approx. Time Count: 10:50; Comments: .}

SEN. BISHOP asked how much alcohol it would take to raise the blood alcohol content in an average person to .02?

Ms. Nordlund stated one drink would be all it would take.

SEN. GROSFIELD, referring to the zero tolerance level in the federal act, asked if that stated .02 for youthful drivers.

Ms. Nordlund explained that states have the option of either using a .02 alcohol tolerance or a .00 alcohol tolerance. Anything in excess of .02 is out of compliance under the FCRs as they were recently adopted.

Closing by Sponsor:

REP. CAREY stated this is a tough, but reasonable, bill. It will impact young people in a way that will get their attention and should preclude a number of terrible automobile accidents resulting in deaths and injuries caused by older drunk drivers.

EXECUTIVE ACTION ON HB 65

Motion: **SEN. GROSFIELD MOVED TO AMEND HB 65.**

Discussion:

SEN. GROSFIELD explained that on line 22 he would like to strike "shall" and insert "may". **REP. MENAHAN** did not have any problem with that amendment.
vote: The **MOTION CARRIED unanimously.**

CHAIRMAN CRIPPEN questioned how insurance would cover under 46-18-241?

SEN. HALLIGAN answered that covered conditions of restitution.

Rus Hill, MTLA, commented that insurance cannot cover criminal acts. This is defined as a negligent act.

Motion: **SEN. JABS MOVED HB 65 BE CONCURRED IN AS AMENDED.**

SEN. ESTRADA asked why the Freemen in Jordan could not get a grand jury?

SEN. DOHERTY clarified they did not want a grand jury convened by a state district judge and the county attorney. They wanted to convene their own grand jury for which they were all indicted.

Substitute Motion: **SEN. BISHOP MOVED TO TABLE HB 325.**

He didn't feel there was any need for this bill.

SEN. HALLIGAN supported the motion to table. He would want at least 25% of the registered voters in this petition.

Vote: The **MOTION CARRIED** with **SEN. ESTRADA** voting no.

EXECUTIVE ACTION ON HB 339

{Tape: 3; Side: b; Approx. Time Count: 11:50; Comments: .}

Motion: **SEN. HALLIGAN MOVED HB 339 BE CONCURRED IN.**

Discussion: **SEN. GROSFIELD** stated that the federal rules for truck drivers would be .04 so that might be a place where impairment begins.

Ms. Nordlund felt that would be correct. Your ability to handle a multi-task function like driving, begins to be diminished at an alcohol concentration of .04. It may happen earlier for an inexperienced drinker.

SEN. BARTLETT reminded the committee that **SEN. NELSON** would have a problem with this bill because in her area there are a number of kids in this age bracket who need to drive to work and/or school. A single DUI would put them out of a job.

SEN. MCNUTT stated that as a business owner he makes allowances for his employees. They give them a ride to work, get them to treatment and try to work with them.

SEN. DOHERTY asked if the probationary license was changed, would federal funds be jeopardized.

Ms. Nordlund stated this would jeopardize the incentive monies across the board. In terms OF THE FEDERAL AID AND HIGHWAY DOLLARS, AS LONG AS LICENSE REVOCATIONS AND/OR SUSPENSIONS ARE authorized for any violation of the state's zero tolerance law, they would be in compliance for purposes of highway construction dollars. They absolutely must change for those over 18 because our current law does not provide for any license suspension on the first offense. You can soften the suspension or revocation without jeopardizing the federal aid and highway dollars.

SEN. HALLIGAN withdrew his motion.

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **ACTING CHAIRMAN REINY JABS**, on March 13, 1997, at 9:00 A.M., in Room 325.

ROLL CALL

Members Present:
Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: Sen. Holden, Sen. Estrada, Sen. Halligan

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	HB 243	3/4/97
	HB 479	3/4/97
	HB 346	3/4/97
Executive Action:	HB 251, HB 243, HB 479, HB 346, HB 339, HB 68	

HEARING ON HB 243

{Tape: 1; Side: A; Approx. Time Count: 9:05; Comments: .}

Sponsor: **REP. MATT DENNY, HD 63, Missoula**

Proponents: **Brad Griffin, Montana Retail Assoc.**
Aric Curtiss, Helena Shop Ko Loss Prevention Manager
Bernard Jakely, Great Falls Shop Ko Loss Prevention Manager
Jeff Koch, Montana Collector's Association

Ms. Nordlund explained that this bill, as originally presented, was poorly drafted. The Department does not support sections 1 and 2. When they spoke at the House Judiciary hearing they spoke specifically to the section addressing suspension of driver's licenses. They support the bill with the amendments presented.

Vote: The **MOTION TO AMEND HB 346 CARRIED UNANIMOUSLY.**

Motion/Vote: **SEN. DOHERTY MOVED HB 346 BE CONCURRED IN AS AMENDED.** The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 339

{Tape: 2; Side: A; Approx. Time Count: 11:03; Comments: .}

Amendments: hb 033901.avl **EXHIBIT 3** and hb033902.avl **EXHIBIT 4**

Discussion:

Ms. Nordlund stated that the state DUI Task Force would prefer to see hard driver's license suspension. She prepared the amendments as a means of accommodating committee members who remembered that **SEN. NELSON** had strong objection to the 18 to 20 year olds. The amendments are in alternative. Amendment 1, hb33901.avl, allows a probationary driver's license to be issued if the court makes a specific finding that alternative means of transportation is not available to the person to meet work or school obligations and the person pays the reinstatement fee of $100 provided in 61-2-107. This amendment will disqualify us from the incentive money for the highway safety bureau. It does not affect the federal aid in highway construction dollars. The second amendment, hb033902.avl, would provide that they serve at least 30 days of a hard suspension and then be eligible for the probationary drivers license upon payment of the license reinstatement fee. The way the law is written, if someone is sentenced under the MIP statute it is up to the court as to whether they get the probationary license. The information she presented to the committee at the hearing explained that the number of probationary licenses which they have been issuing to MIP offenders has been a drop in the bucket compared to the number of suspensions and revocations. The 30 day hard suspension will qualify for the federal incentive monies for highway traffic safety.

{Tape: 2; Side: b; Approx. Time Count: 11:00; Comments: .}

This would amount to $500,000 per biennium. Amendment no. 1 would disqualify the state.

SEN. GROSFIELD asked if 30 days was the lowest number we could use?

Ms. Nordlund stated 30 days was necessary to receive the federal funding dollars.

Motion\Vote: **SEN. CRIPPEN MOVED HB 339 BE AMENDED - hb033902.avl.** The **MOTION CARRIED UNANIMOUSLY.**

Motion\Vote: **SEN. CRIPPEN MOVED HB 339 BE CONCURRED IN AS AMENDED.** The **MOTION CARRIED** with **SEN. BISHOP** voting no.

EXECUTIVE ACTION ON HB 68

Amendments: Department of Corrections Amendment - **EXHIBIT 5**

Discussion:

Dave Ohler, Department of Corrections, explained that **SEN. GROSFIELD** had stated he wanted to see an amendment which would exempt out instances in which state employees were negligent during a riot or disturbance. His amendment, **EXHIBIT 5,** would get rid of the exceptions and states that state employees could not be held liable in negligence unless the negligence results in death or serious bodily injury.

SEN. GROSFIELD stated he was concerned about negligence which results in serious injury. He is not sure the amendment goes far enough. Serious bodily injury would deal with disfigurement. They heard a bill a few days ago where serious bodily injury in a rape case would go to capital punishment.

SEN. BARTLETT asked what the effect would be in taking medical malpractice out as a clear exception?

SEN. CRIPPIN felt this would modify the amendment which was put in by the House.

Mr. Ohler stated that they only have one employee who would be subject to a medical malpractice suit and that would be the psychiatrist

SEN. CRIPPEN stated that if there was an intentional tort, the House felt there could not be immunity. By striking that, if there was an intentional tort, it would be okay unless it resulted in death or serious bodily injury.

Mr. Ohler stated that would not be the case. The only exception to liability for state employees is if they committed negligence. The death or serious bodily injury goes to the negligence cause of action only. In certain instances, state employees would not be exempt for liability even for negligence.

SEN. BARTLETT asked if **SEN. HALLIGAN** had expressed concern with having the malpractice, gross negligence, etc. list in the bill?

Mr. Ohler stated that was right. Simply by saying they were exempt from negligence stands on its own and there is no need to list all the exceptions.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 339

Call to Order: By **CHAIRMAN DUANE GRIMES**, on April 15, 1997, at 7:14 a.m., in Room 331.

ROLL CALL

Members Present:
Rep. Duane Grimes (R)
Rep. Bill Carey (D)
Rep. Bill Tash (R)
Sen. Reiny Jabs (R)

Members Excused: Sen. Bruce Crippen
Sen. Mike Halligan

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Elaine Benedict, House Committee Secretary

HEARING ON HB 339

Sponsor: **REP. BILL CAREY, House District 67, Missoula.**

Opening Statement by Sponsor:

REP. BILL CAREY.
{Tape: 1; Side: A; Approx. Time Count: 0.4; Comments: None.}

Informational Testimony:

Brenda Nordlund, Department of Justice.
{Tape: 1; Side: A; Approx. Time Count: 1.1; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 3.1; Comments: None.}

Informational Testimony:

Valencia Lane, Legislative Services Division.
{Tape: 1; Side: A; Approx. Time Count: 4.2; Comments: None.}

Questions From Committee Members and Responses:
{Tape: 1; Side: A; Approx. Time Count: 6.5; Comments: MS. NORDLUND ALSO A RESPONDENT DURING THIS PORTION OF QUESTIONING.}

EXHIBIT 1. Ms. Nordlund.